

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MICHAEL A. CLARK,

Plaintiffs,

vs.

KELLY BELANGER, et al.,

Defendants.

2:11-cv-01850-GMN-VCF

ORDER

In this § 1983 action, plaintiff, who is a prisoner in the custody of the Nevada Department of Corrections has submitted an amended civil rights complaint pursuant to 42 U.S.C. § 1983 (#13). Based on the financial information provided, the Court finds that plaintiff is unable to prepay the full filing fee in this matter.

The Court screened plaintiff's amended complaint dismissing counts I-IX of the amended complaint with prejudice and count X without prejudice, giving plaintiff leave to amend within thirty days (ECF No. 28). Rather than amend, plaintiff appealed the order to the Ninth Circuit (ECF No. 30). The circuit court dismissed the appeal on February 28, 2013 (ECF No. 32). Since that time, plaintiff has failed to take any action to further prosecute the case and has not filed an amended complaint or sought additional time for that purpose. Therefore, the amended complaint (ECF No. 13) shall be dismissed with prejudice and this action shall be closed. Plaintiff's ex parte motion for rehearing of motions #4-6 shall be denied.

IT IS THEREFORE ORDERED as follows:

1. Plaintiff's application to proceed *in forma pauperis* (# 7) is **GRANTED**. Furthermore, even though this action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. § 1915(b)(2).
2. Pursuant to 28 U.S.C. § 1915(b)(2), the Nevada Department of Corrections shall pay to the Clerk of the United States District Court, District of Nevada, 20% of the preceding month's deposits to plaintiff's account (inmate #95771), in the months that the account exceeds \$10.00, until the full \$350.00 filing fee has been paid for

1 this action. The Clerk of the Court shall **SEND** a copy of this order to the Finance
2 Division of the Clerk's Office. The Clerk shall also **SEND** a copy of this order to
3 the attention of the Chief of Inmate Services for the Nevada Department of
4 Corrections, P.O. Box 7011, Carson City, NV 89702.

5 3. The Amended Complaint (ECF No. 13) and this action are **DISMISSED WITH**
6 **PREJUDICE** for failure to state a claim for relief. This dismissal shall count as a
7 strike pursuant to 28 U.S.C. § 1915(g). Any appeal of this order would not be taken
8 in good faith.

9 4. Plaintiff's ex parte motion for rehearing of motions #4-6 is **denied**.

10 The Clerk shall enter judgment accordingly.

11 **IT IS SO ORDERED.**

12 **DATED** this 7th day of May, 2013.

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17 Gloria M. Navarro
18 United States District Judge
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